

**ERIN J. RADEKIN**  
**Attorney at Law – SBN 214964**  
1001 G Street, Suite 100  
Sacramento, CA 95814  
Telephone: (916) 504-3931  
Facsimile: (916) 447-2988

Attorney for Defendant  
ROBERT JAMES HANNA

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF CALIFORNIA**

**THE UNITED STATES OF AMERICA,**

Plaintiff,

v.

**ROBERT JAMES HANNA,**

Defendant.

CASE NO. 2:20-CR-00006-KJM

**STIPULATION AND ORDER MODIFYING  
BRIEFING SCHEDULE RE: DEFENDANT'S  
MOTION PURSUANT TO 28 U.S.C. § 2255**

The United States, by and through its attorney of record, Michele Beckwith, and defendant Robert James Hanna, by and through his attorney of record, Erin J. Radekin, respectfully submit this stipulation and proposed order modifying the briefing schedule pertaining to Mr. Hanna's motion pursuant to 28 U.S.C. § 2255, ECF No. 41.

The parties agree and stipulate as follows:

1. Mr. Hanna's pro se motion under § 2255 was filed on September 8, 2022. ECF No. 41.
2. On March 22, 2023, the Court adopted the parties' stipulation modifying the briefing schedule pertaining to Mr. Hanna's § 2255 motion. ECF No. 56. Pursuant to the order, a supplemental brief in support of Mr. Hanna's motion, amended § 2255 motion, or notice of non-supplementation is due on May 15, 2023. *Id.*

////

1           3. Ms. Radekin has reviewed all relevant PACER documents in this case, including Mr. Hanna's  
2 pro se motion, the transcripts of the change of plea and sentencing, and the presentence report (PSR).  
3 She has conferred with Mr. Hanna and spoken with prior counsel, Jessica Graves. She has evaluated  
4 Mr. Hanna's pro se claims and she has identified one potentially meritorious issue to raise in a § 2255  
5 motion, relating to the sustained finding that Mr. Hanna suffered a prior crime of violence, his  
6 conviction of California Penal code section 245, subdivision (a)(4), for purposes of calculating the base  
7 offense level under U.S.S.G. § 2K2.1. See PSR at ¶¶ 20, 41. Ms. Radekin has obtained and reviewed  
8 the state court records pertaining to this prior state conviction. She has ordered and paid for the  
9 transcript on the entry of plea proceeding in that case; however, she has not yet received the transcript.  
10 It is necessary to review the transcript of the plea proceedings to determine whether this conviction is a  
11 crime of violence pursuant to the modified categorical approach; the other documents in the record of  
12 conviction do not resolve the issue. See *Bogard v. United States*, Nos. CR 91-00777-WDK-1; CV 16-  
13 08856 WDK, 2018 U.S. Dist. LEXIS 242478, \*15, 2018 WL 11275435 (applying the modified  
14 categorical approach to determine whether a conviction of Cal. Pen. Code, § 245, subd. (a)(1) was a  
15 crime of violence because the statute is divisible). Ms. Radekin thus needs additional time to receive  
16 and review the transcript and, depending upon her conclusion after such review, prepare and file an  
17 amended § 2255 motion, supplemental brief, or notice of non-supplementation.  
18

19  
20           4. The parties have conferred and agree that a modification of the briefing schedule is warranted  
21 to allow Ms. Radekin to obtain and review the above-referenced transcript relating to the prior  
22 conviction deemed a crime of violence in this case, to determine whether there is a meritorious issue to  
23 raise in a § 2255 motion relating to that conviction, and to prepare an amended § 2255 motion,  
24 supplemental brief, or a notice of non-supplementation.  
25

26           5. The parties agree to the following modification of the briefing schedule to allow Ms. Radekin  
27 to complete these tasks: an amended § 2255 motion, supplemental brief in support of Mr. Hanna's pro se  
28 motion, or notice on non-supplementation, due no later than **July 14, 2023**. The government's

1 opposition, or statement of non-opposition, is due **30 days after the amended § 2255 motion,**  
2 **supplemental brief, or notice of non-supplementation is filed.** Any reply to the government's brief is  
3 due **15 days after the government's brief is filed.**

4 IT IS SO STIPULATED.

5 Dated: May 12, 2023

PHILLIP A. TALBERT  
United States Attorney

7 /s/ Michele Beckwith  
8 MICHELE BECKWITH  
Assistant United States Attorney

9 Dated: May 12, 2023

10 /s/ Erin J. Radekin  
ERIN J. RADEKIN  
Counsel for Defendant  
ROBERT JAMES HANNA

12 **ORDER**

13 IT IS SO ORDERED this 17th day of May, 2023.

14  
15   
16 CHIEF UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28